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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

WASHINGTON TOXICS COALITION,	)	
NORTHWEST COALITION FOR	)	Civ. No. C01-0132C
ALTERNATIVES TO PESTICIDES,	)	
PACIFIC COAST FEDERATION OF	)	RENOTING OF PLAINTIFFS' MOTIONS
FISHERMEN'S ASSOCIATIONS, and	)	(1) FOR FURTHER ACTION BY
INSTITUTE FOR FISHERIES RESOURCES,	)	DEFENDANT ENVIRONMENTAL
	)	PROTECTION AGENCY TO IMPLEMENT
Plaintiffs,	)	JANUARY 22, 2004 ORDER, AND (2) FOR
	)	CLARIFICATION THAT THE JANUARY
v.	)	22, 2004 ORDER'S NOXIOUS WEED
	)	EXCLUSION DOES NOT AUTHORIZE
ENVIRONMENTAL PROTECTION	)	APPLICATION OF THE COVERED
AGENCY, and STEPHEN L. JOHNSON,	)	PESTICIDES DIRECTLY INTO SALMON
Acting Administrator, <sup>1</sup>	)	SUPPORTING WATERS
	)	
Defendants,	)	RENOTED ON MOTION CALENDAR:
	)	FRIDAY, SEPTEMBER 16, 2005
AMERICAN CROP PROTECTION	)	
ASSOCIATION, et al.,	)	
	)	
Intervenor-Defendants.	)	

<sup>1</sup> Please note that pursuant to Fed. R. Civ. P. 25(d)(1), Stephen L. Johnson, Acting Administrator, is substituted as a defendant for Michael O. Leavitt, Administrator.

1 Plaintiffs Washington Toxics Coalition et al. ("WTC") hereby renote two motions  
2 previously filed and fully briefed. First, WTC renotes its Motion for Further Action by  
3 Defendant Environmental Protection Agency to Implement January 22, 2004 (Dkt. 300), which  
4 was originally noted for July 16, 2004. Second, WTC renotes its Motion for Clarification that  
5 the January 22, 2004 Order's Noxious Weed Exclusion Does Not Authorize Application of the  
6 Covered Pesticides Directly into Salmon Supporting Waters (Dkt. 304), which was originally  
7 noted for July 30, 2004.

8 By minute order dated December 23, 2004, the Court deferred ruling on these motions  
9 until the Ninth Circuit rendered its decision in the pending appeals. The Court struck the  
10 motions but provided that WTC could refile them following issuance of a decision by the Ninth  
11 Circuit. Minute Order (Dec. 23, 2004). On June 29, 2005, the Ninth Circuit affirmed this  
12 Court's orders enjoining EPA pending compliance with its obligations under Section 7(a)(2) of  
13 the Endangered Species Act. On August 26, 2005, the Ninth Circuit mandate issued. Because  
14 the Ninth Circuit has resolved the appeals, WTC is now renoting these motions, which should  
15 conclude this litigation, except for WTC's entitlement to an award of attorneys' fees and costs.

16 While the renoted motions have been fully briefed, WTC wishes to update the motion for  
17 further action by EPA to implement the January 22, 2004 Order in two respects. First, EPA's  
18 website now contains a description of the point of sale warning requirements, as well as a link to  
19 the point of sale notifications. See <http://www.epa.gov/oppfead1/endanger/wtc/pos.htm>.  
20 Accordingly, WTC no longer asks the Court to order EPA to provide on its website an easily  
21 accessible and clear description of the point of sale notification requirements and the  
22 notifications themselves.

23 Second, EPA directed the public to an industry website to obtain copies of the point of  
24

1 sale notifications in the Federal Register notice that it distributed on the point of sale warning  
 2 requirements. See 69 Fed. Reg. 13,836, 13,838 (March 24, 2004) (Exhibit 1 to Motion for  
 3 Further Action by EPA to Implement January 22, 2004 Order). WTC objected to the reference  
 4 to an industry website devoted to promoting pesticide use and to countering scientific evidence  
 5 about the harms from particular pesticides. See <http://www.pestfacts.org/>. At the time EPA  
 6 issued its Federal Register notice, the industry website contained a link to the point of sale  
 7 notification information in the website's opening page. That is no longer the case. In fact, the  
 8 point of sale notifications are no longer linked to any subheadings or drop-down links on the site.  
 9 Instead, the only way to access the point of sale notifications on the industry site is to conduct a  
 10 search of the site. See <http://www.pestfacts.org/> (last searched on August 31, 2005). Because  
 11 EPA's Federal Register notice directs the public to obtain the point of sale notifications from an  
 12 industry website in which those notifications are at best difficult to locate, WTC still asks the  
 13 Court to order EPA to publish another Federal Register notice that directs the public to EPA's  
 14 website, rather than to an industry website, for the point of sale notifications.

15 Respectfully submitted this 1<sup>st</sup> day of September, 2005.

16  
 17  
 18 /s/ Patti Goldman  
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22 *Attorney for Plaintiffs*

CERTIFICATE OF SERVICE

I am a citizen of the United States and a resident of the State of Washington. I am over 18 years of age and not a party to this action. My business address is 705 Second Avenue, Suite 203, Seattle, Washington 98104.

On September 1, 2005, I served a true and correct copy of:

1. Renoting of Plaintiffs' Motions (1) for Further Action by Defendant Environmental Protection Agency to Implement January 22, 2004 Order, and (2) for Clarification That the January 22, 2004 Order's Noxious Weed Exclusion Does Not Authorize Application of the Covered Pesticides Directly Into Salmon Supporting Waters;
2. [Proposed] Order Granting Plaintiffs' Motion for Further Action by Defendant Environmental Protection Agency to Implement January 22, 2004 Order; and
3. [Proposed] Order Clarifying the January 22, 2004 Order's Noxious Weed Exclusion.

on the parties listed below:

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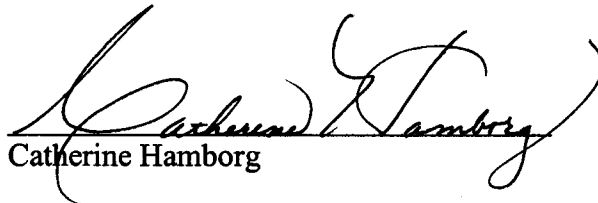
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11 I, Catherine Hamborg, declare under penalty of perjury that the foregoing is true and  
12 correct. Executed this 1<sup>st</sup> day of September, 2005, at Seattle, Washington.

13   
14 Catherine Hamborg